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MAR 31 2005

WILLIAM T. WALSH, CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
NEWARK

MICHAEL VACARRO,

Plaintiff,

v.

HJC AMERICA, INC. AND ABC
CORPORATION 1-10,

Defendant(s).

x

Civil Action No. 04-3480 (JCL)

**ORDER
PERMITTING FILING OF
THIRD PARTY COMPLAINT**

x

This matter having been opened to the Court upon application of WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER, L.L.P. (Robert J. Kelly, Esquire) attorneys for Defendant/Third Party Plaintiff HJC America, Inc., for an Order for leave to file Third Party Complaint against Third Party Defendants Javier Torres and Angel Torres; and for good cause shown; *and the reasons placed on the record*

IT IS on this *28* day of *March*, 2005,

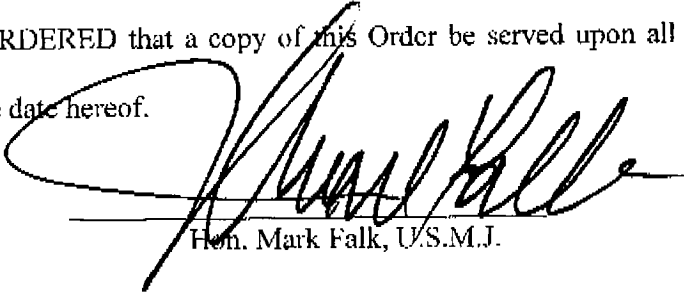
ORDERED that,

1. Defendant/Third Party Plaintiff HJC America, Inc. is granted leave to file and serve Third Party Complaint against Third Party Defendants Javier Torres and Angel Torres; and it is

2. FURTHER ORDERED that the Third Party Complaint be filed within ~~twenty~~ ^{five (5)} ~~(20)~~ days and it is

3. FURTHER ORDERED that the Third Party Complaint be served within ~~thirty~~ ^{twenty} ~~(30)~~ days; and it is

4. FURTHER ORDERED that a copy of this Order be served upon all counsel of record within ³ days of the date hereof.


Hon. Mark Falk, U.S.M.J.

WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP
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Attorneys for Defendant HJC AMERICA, INC.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
NEWARK

_____	X	
MICHAEL VACCARO,	:	
	:	Civil Action No. 04-cv-3480 (JCL)
Plaintiff,	:	
	:	
v.	:	
	:	
HJC AMERICA, INC. AND ABC	:	THIRD PARTY COMPLAINT
CORPORATION 1-10,	:	
	:	
Defendant(s).	:	
	:	
_____	X	
HJC AMERICA, INC.,	:	
	:	
Defendant/Third Party Plaintiff,	:	
	:	
v.	:	
	:	
JAVIER TORRES and ANGEL TORRES,	:	
	:	
Third Party Defendants.	:	
_____	X	

Defendant, HJC America, Inc. ("HJCA"), doing business at 16918 Edwards Avenue, Cerritos, California 90703, by way of Third Party Complaint alleges and says:

COUNT I
NEGLIGENCE

1. Defendant/Third Party Plaintiff HJCA has been made a defendant in the above-referenced suit in which Plaintiff Michael Vaccaro alleges that he was injured on June 28, 2002,

when his motorcycle was struck by a vehicle operated by Third Party Defendant Javier Torres and owned by Third Party Defendant Angel Torres. [Exhibit A].

2. Upon information and belief, Plaintiff Michael Vaccaro resides in West Orange, New Jersey.

3. Defendant/Third Party Plaintiff HJCA is a California Corporation with its principal place of business at 16918 Edwards Road, Cerritos, California.

4. Upon information and belief, Third Party Defendants Javier Torres and Angel Torres reside in Dover, New Jersey.

5. Upon information and belief, on or about June 28, 2002, Plaintiff was operating his motorcycle on Route 46 eastbound in Rockaway Borough Township, New Jersey when Third Party Defendant Javier Torres operating his motor vehicle on Route 46 westbound made a sudden left turn into the parking lot of a Jiffy Lube, striking Plaintiff's vehicle.

6. At the time and place aforesaid, Third Party Defendant Javier Torres did act in a negligent and careless manner so as to cause his motor vehicle owned by Third Party Defendant Angel Torres to strike the motorcycle of Plaintiff Michael Vaccaro.

7. As a direct and proximate result of the aforesaid negligence and carelessness of the Third Party Defendants, Plaintiff Michael Vaccaro allegedly sustained severe injuries.

Wherefore, Defendant/Third Party Plaintiff HJCA demands judgment against Third Party Defendants Javier Torres and Angel Torres for all sums for which Defendant/Third Party Plaintiff maybe found liable to the Plaintiff, together with interest, costs of suit and counsel fees.

COUNT II
CONTRIBUTION

1. Defendant/Third Party Plaintiff HJCA repeats and realleges each and every allegation contained in the First Count of the Third Party Complaint as if same was set forth herein at length.

2. Although Defendant/Third Party Plaintiff HJCA denies any liability whatsoever, if HJCA should be found liable to Plaintiff, Defendant/ Third Party Plaintiff HJCA asserts that the Third Party Defendants Javier Torres and Angel Torres are joint tortfeasors with respect to any loss, liability or expense on account of Plaintiff's demand for judgment.

WHEREFORE, Defendant/Third Party Plaintiff HJCA demands judgment for contribution against the Third Party Defendants Javier Torres And Angel Torres together with interests, attorneys' fees, costs of suit and such other relief as the court deems appropriate and equitable pursuant to and in accordance with the provisions of the New Jersey Tortfeasors Contribution Law, N.J.S.A. 2A:53A-1, et.seq. and the Comparative Negligence Act, N.J.S.A. 2A:15-5.1 et. seq.

COUNT III
INDEMNIFICATION

1. Defendant/Third Party Plaintiff HJCA repeats and realleges each and every allegation contained in the First and Second Counts of the Third Party Complaint as if same were set forth herein at length.

2. Although the Defendant/Third Party Plaintiff HJCA denies any liability whatsoever, it nonetheless asserts that any and all injuries and damages sustained by Plaintiff

Michael Vaccaro were the proximate result of the negligence of the Third Party Defendants Javier Torres and Angel Torres, and if this Defendant/Third Party Plaintiff is found liable to Plaintiff with respect to said injuries and damages, such liability will only be secondary, passive, technical, vicarious or imputed and Third Party Defendants Javier Torres and Angel Torres are liable to the Defendant/Third Party Plaintiff HJCA, by way of indemnification for any and all sums which this Defendant/Third Party Plaintiff may be required to pay in this action.

WHEREFORE, Defendant/Third Party Plaintiff HJCA demands judgment by way of indemnification against the Third Party Defendants Javier Torres and Angel Torres for any and all sums which the Defendant/Third Party Plaintiff is required to pay in the within action, together with interest, attorneys' fees, costs of suit, and such other relief as this court deems appropriate and equitable.

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER, LLP
Attorneys for Defendant/Third Party Plaintiff HJC America, Inc.

BY: Robert J. Kelly
Robert J. Kelly, Esq.

Date: 4-1-05